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10/789,665	02/27/2004	Matthew J. N. C. Roche	FORT-002-002	7553

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EXAMINER
PHAM, HUNG Q

ART UNIT	PAPER NUMBER
2159	

NOTIFICATION DATE	DELIVERY MODE
06/17/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent_docketing@intprop.com
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	Application No.	Applicant(s)
Office Action Summary	10/789,665	ROCHE ET AL.
	Examiner	Art Unit	
	HUNG Q. PHAM	2159	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>05 April 2010</u>.

2a) ☒ This action is FINAL.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,3,4,8,9,20,21,26-35 and 37-50</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,3,4,8,9,20,21,26-35 and 37-50</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/14/10</u>

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail. Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

<u>Claim Objections</u>

The objection to claims 37-39 has been withdrawn in view of the amendments.

<u>Claim Rejections - 35 USC § 112</u>

The rejection of claims 1, 2, 42, 44, 46, 48 and 50 under 35 U.S.C. § 112, 1st

paragraph has been withdrawn in view of the amendments.

<u>Claim Rejections - 35 USC § 102</u>

- Applicant's arguments with respect to the rejection of claim 1 under 35 U.S.C.

§ 102 have been fully considered but they are not persuasive.

  o As argued by applicant (Remarks, Page 13):

    ... Applicant has amended claim 1 to further clarify a "presentation device" at a second network location.
    Accordingly, Applicants submit that the claimed rendering of the Web-page by the presentation device is not
    equivalent to disclosed executable codes of the cited art.

        Moreover, contrary to the assertions of the Office Action, Harrington does not teach or suggest at
    least the feature of, *wherein the selected product information includes data that is transmitted to the
    presentation device from a server at a third network location in response to a user request for a
    Web-page, and wherein rendering of the Web-page by the presentation device causes the
    presentation device to transmit the data to the first network location.*

The examiner respectfully disagrees.

As disclosed by Harrington, a user is enable to connect to any of the websites

12a-g in FIG. 1, whereupon the user would interact with the remote vendor website 23

using the commands and structured data hierarchy (Harrington, Col. 4-Lines 15-22).

While reviewing the products/services provided by the vendor 25, if the user wishes to

order or purchase a product/service, he/she clicks on a "purchase" icon or button

(Harrington, Col. 4-Lines 26-29). If the user activates the "purchase" button, a

transaction notification in the form of a data packet including product/service ordered,

the price, availability and other identifying data relevant to the user is transmitted to the

database administration software 21. As the user navigates his or her way through a

number of vendor websites, multiple transaction notifications can be sent back to the

database administration software 21 (Harrington, Col. 4-Lines 35-46). The transaction

notifications in the form of data packets are recorded in a database (Harrington, Col. 2-

Lines 40-50). As shown in Harrington's FIG. 1 is the network layout, wherein user, server

and vendor sites are at different locations.

   The products/services ordered, the prices, availability and other identifying data

obtained from user sites in response to purchase selections from different users is

considered as being equivalent to the claimed *obtaining merchandising data related to a

product*. The product ordered, the price, availability of a particular user is considered as

being equivalent to the claimed *selected product information*. A user site implies a

conventional computer with monitor or *a presentation device at a second network location*. The

transmitted ordered product/service, price, availability and other identifying data in the

form of data packet from a particular user site to database administration software 21 in

response to purchase selection reads on the claimed limitation *acquiring selected product

information from at least at the presentation device;*

   *wherein the selected product information includes data that is transmitted to the point of

presentation from a server at a third network location in response to a user request for a Web-page,*

e.g., product ordered, the price, availability including data such as product name, price

value…is transmitted to the displayed web page at user site from vendor site in

response to user's navigation to the webpage corresponding to remote vendor; and

wherein rendering of the Web-page by the presentation device causes the presentation device to

transmit the data to the first network location, e.g., transaction notifications are sent to the

database administration software 21 as the user navigates his/her way through a

number of vendor websites via vendor modified website software 24 (Harrington, FIG. 2,

Col. 4-Lines 35-46).

> o   As argued by applicant (Remarks, Page 14):
>
> Accordingly, Harrington discloses an event that is activated by a purchase/selection, such as a user selecting
> a "purchase" button. In response to activating the event, a notification is transmitted from the vendor to the
> database. Harrington, however, does not disclose that rendering of a Web-page causes transmission of data.
> Moreover, Harrington does not disclose transmission of data from a presentation device at a second network
> location to a database at a first network location. That is Harrington appears to at best disclose direct transfer
> of data between the vendor and the database, as opposed to transfer of data from a presentation device
> (e.g., a network location including a computer or digital presentation device where the Web-page is
> rendered) to a second network location where the database is located, much less the transfer being caused
> by rendering of a Web-page by the presentation device. The other cited art does not remedy these
> deficiencies.

The examiner respectfully disagrees.

As taught by Harrington, the transaction notification is transmitted to the

database administration software 21 by vendor modified website software 24

(Harrington, Col. 4-Lines 35-39). As shown in Harrington's FIG. 2, vendor modified

website software 24 is a website interface for displaying the website when connected.

The website interface 24 receives product/service information from the vendor 25 via the

link 36. The transaction notification is transmitted directly by the link 35 from website 25

to database administration software 21 via website interface 24. The teaching of

Harrington's FIG. 2 clearly indicates the transaction notification is transmitted from the

visual website on the user's computer. In different words, the Harrington's teaching

reads on the claimed limitation *rendering of the Web-page by the presentation device causes the*

presentation device to transmit the data to the first network location.

- Applicant's arguments with respect to the rejection of claims 8, 20, 26 and 34

have been fully considered but they are not persuasive. Claims 8, 20, 26 and 34 are

unpatentable over Harrington for at least the reasons as discussed above.

- Applicant's arguments with respect to the rejection of claims 29, 37 and 41-50

under 35 U.S.C. § 103(a) have been fully considered but they are not persuasive.

Claims 29, 37 and 41-50 are unpatentable over Harrington in view of Musgrove and

Trubey for at least the reasons as discussed above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8, 9, 20, 21, 26-28, 30-35 and 38-40 are rejected under 35

U.S.C. 102(b) as being anticipated by Harrington [USP 5,895,454].

Regarding claims 1, 20 and 34, Harrington teaches a method and program for

populating a merchandising product database, comprising:

obtaining merchandising data related to a product from a presentation device at a second

network location, the obtaining step comprising acquiring selected product information from at least at

the presentation device (As disclosed by Harrington, a user is enable to connect to any of

the websites 12a-g in FIG. 1, whereupon the user 11 would interact with the remote

vendor website 23 using the commands and structured data hierarchy (Harrington, Col.

4-Lines 15-22). While reviewing the products/services provided by the vendor 25, if the

user wishes to order or purchase a product/service, he/she clicks on a "purchase" icon

or button (Harrington, Col. 4-Lines 26-29). If the user activates the "purchase" button, a

transaction notification in the form of a data packet including product/service ordered,

the price, availability and other identifying data relevant to the user is transmitted to the

database administration software 21. As the user navigates his or her way through a

number of vendor websites, multiple transaction notifications can be sent back to the

database administration software 21 (Harrington, Col. 4-Lines 35-46). The transaction

notifications in the form of data packets are recorded in a database (Harrington, Col. 2-

Lines 40-50). As shown in Harrington's FIG. 1 is the network layout, wherein user, server

and vendor sites are at different locations. The products/services ordered, the prices,

availability and other identifying data obtained from user sites in response to purchase

selections from different users is considered as being equivalent to the claimed *obtaining*

merchandising data related to a product. The product ordered, the price, availability of a

particular user is considered as being equivalent to the claimed *selected product information*.

A user site implies a conventional computer with monitor or *a presentation device at a second*

network location. The transmitted ordered product/service, price, availability and other

identifying data in the form of data packet from a particular user site to database

administration software 21 in response to purchase selection reads on the claimed

limitation *acquiring selected product information from at least at the presentation device*),

   wherein the selected product information includes data that is transmitted to the point of

presentation from a server at a third network location in response to a user request for a Web-page,

e.g., product ordered, the price, availability including data corresponding to product ordered, the price, availability such as product name, price value…is transmitted to the displayed web page at user site from vendor site in response to user's navigation to the webpage corresponding to remote vendor and

wherein rendering of the Web-page by the point of presentation causes the point of presentation to transmit the data to the first network location, e.g., transaction notifications are sent to the database administration software 21 as the user navigates his/her way through a number of vendor websites via vendor modified website software 24 (Harrington, FIG. 2, Col. 4-Lines 35-46);

storing at least part of the obtained merchandising data in the merchandising product database at the first network location (As shown in FIG. 1, the database 10 is *merchandising product database at the first network location*. Harrington further teaches that the transaction notifications in the form of data packets are recorded in a database (Harrington, Col. 2-Lines 40-50). In short, the ordered product, the price, availability and other identifying data that is obtained via transaction notification in the form of a data packet is stored in database 10 (Col. 4 Lines 9-15)),

the storing comprising collecting the selected product information in the merchandising product database (Storing of ordered product/service, the price, availability and other identifying data comprising collecting ordered product, the price, availability data in database 10).

Regarding claim 3, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 1, Harrington further discloses *the selected product information comprises data about the product rendered at the point of presentation at the second network location* (Col. 4 Lines 35-50).

Regarding claim 4, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 1, Harrington further discloses the claimed limitation *the merchandising product database does not have information related to the product prior to the storing step* (Col. 4 Lines 35-50).

Regarding claim 8, Harrington teaches a merchandising database system at a first network location (FIG. 1), comprising:

an interface configured to be coupled to a network (As shown in Harrington's FIG. 2, DATABASE ADMIN 21 is *an interface configured to be coupled to a network*) and

to obtain selected product data related to a product presented at a second network location on a Web-page served by a server at a third network location (As disclosed by Harrington, a user is enable to connect to any of the websites 12a-g in FIG. 1, whereupon the user 11 would interact with the remote vendor website 23 using the commands and structured data hierarchy (Harrington, Col. 4-Lines 15-22). While reviewing the products/services provided by the vendor 25, if the user wishes to order or purchase a product/service, he/she clicks on a "purchase" icon or button (Harrington, Col. 4-Lines 26-29). If the user activates the "purchase" button, a transaction notification in the form of a data packet including product/service ordered, the price, availability and other identifying data relevant to the user is transmitted to the database administration software 21. As the user navigates his or her way through a number of vendor websites, multiple transaction notifications can be sent back to the database administration software 21 (Harrington, Col. 4-Lines 35-46). The Harrington's teaching indicates the Browser Application is to *obtain selected product data related to a product presented at a second network location on a Web-page served by a server at a third network location*, e.g.,

ordered product, price, availability and other identifying data related to a product

presented at user site is obtain in the form of data packet from the activation of

"purchase" button at user site with a web page served by the vendor server at

vendor site),

wherein the selected product data includes data that is transmitted to the second network

location from the server at the third network location in response to a user request for the Web-page,

e.g., product ordered, the price, availability including data corresponding to product

ordered, the price, availability such as product name, price value…is transmitted to the

displayed web page at user site from vendor site in response to user's navigation to the

webpage corresponding to remote vendor and

wherein rendering of the Web-page by the point of presentation causes the point of presentation

to transmit the data to the interface, e.g., transaction notifications are sent back to the

database administration software 21 and recorded in database 10 in the form of data

packets during navigation by modified website software 24;

a storage device configured to store at least part of the selected product data at the first network

location (The transaction notifications in the form of data packets are recorded in a

database at server site (Harrington, Col. 2-Lines 40-50)).

Regarding claim 9, Harrington teaches all of the claimed subject matter as

discussed above with respect to claim 8, Harrington further discloses *the interface is*

configured to obtain the selected product data directly from a presentation device on which the Web-

page is presented at the second network location (Col. 4 Lines 35-50).

Regarding claim 21, Harrington teaches all of the claimed subject matter as

discussed above with respect to claim 20, Harrington further discloses the step of

obtaining the selected product information directly from the presentation device at the second network

location on which the product is presented (Harrington, FIG. 2, Col. 4-Lines 35-46).

Regarding claim 26, Harrington teaches a method for populating a

merchandising product database located at a first network location, comprising:

rendering in response to user interaction with an interactive catalog, at least a portion of the

interactive catalog at a second network location (A hierarchical menu is displayed for querying

(Col. 5 Lines 25-47). A list of vendor websites is provided according to the query and the

user is connected to a selected vendor website using command (Col. 4 Lines 12-22).

The Harrington teaching indicates the step of *rendering in response to user interaction with an*

interactive catalog, e.g., in response to user interaction with the hierarchical menu, *at least a*

portion of the interactive catalog at a second network location, e.g., the selected vendor website is

rendered at the user site),

wherein content of the rendered portion includes selected data related to one or more products

displayed by the rendered portion of the interactive catalog (The content of the selected vendor

website includes selected data related to the product displayed at the selected vendor

website, e.g., information related to product ordered, the price, availability… (Col. 4

Lines 23-50)), and

wherein the content is obtained by the second network location from one or more source

product databases at a third network location in response to the user interaction with the interactive

catalog (As discussed above, the content of the selected vendor web site is obtained by

the user from the vendor site in response to user interaction with the hierarchical menu);

wherein said rendering causes a device at the second network location to communicate the

selected data related to the products from the second network to the merchandising product database at

the first network location such that the selected data is communicated from the source product databases

to the merchandising product database by way of the second network location without requiring a direct

data transfer between the source product databases at the third network location and the merchandising

product database at the first network location (Col. 4 Lines 35-50 and Col. 7 Lines 1-11); and

     modifying the merchandising product databases using the selected data such that the databases

include a representation of the selected data (Col. 7 Lines 1-11).

     Regarding claim 27, Harrington teaches all of the claimed subject matter as

discussed above with respect to claim 26, Harrington further discloses *information from the*

source product databases is communicated to the merchandising product database through the

interactive catalog (Col. 5 Lines 25-47 and Col. 4 Lines 12-22).

     Regarding claim 28, Harrington teaches all of the claimed subject matter as

discussed above with respect to claim 26, Harrington further discloses *the selected data*

comprises parameters embedded within the rendered portion of the interactive catalog (Col. 4 Lines

35-50).

     Regarding claim 30, Harrington teaches all of the claimed subject matter as

discussed above with respect to claim 26, Harrington further discloses *the selected data*

comprises a product description (Col. 4 Lines 35-50).

     Regarding claims 31-33, Harrington teaches all of the claimed subject matter as

discussed above with respect to claim 1, 8 and 20, Harrington further discloses *the*

selected product information comprises portions of the Web-page specified by the third network location

for storage at the merchandising database at the first network location (Col. 4 Lines 35-50).

Regarding claim 35, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 34, Harrington further discloses *presentation medium comprises device executable code that causes said presentation device to automatically transmit said product data to said first network location upon rendering of said Web-page on said presentation device* (Col. 4 Lines 35-50).

Regarding claim 38, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 34, Harrington further discloses *product data comprises a product description* (Col. 4 Lines 35-50).

Regarding claim 39, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 34, Harrington further discloses *product data comprises parameters specified by said third network location for storage at said merchandising product database at said first network location* (Col. 4 Lines 35-50).

Regarding claim 40, Harrington teaches all of the claimed subject matter as discussed above with respect to claim 39, Harrington further discloses the step of *storing said parameters in said merchandising product database contemporaneously with said rendering of said Web-page* (Col. 4 Lines 35-50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the

various claims was commonly owned at the time any inventions covered therein were

made absent any evidence to the contrary. Applicant is advised of the obligation under

37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Harrington [USP 5,895,454] in view of Musgrove et al. [USP 6,535,880 B1].

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Regarding claims 29 and 37, Harrington teaches all of the claimed subject matter

as discussed above with respect to claims 26 and 34, but does not explicitly teach *the*

selected data comprises a product identification.

Musgrove teaches *the selected data comprises a product identification* (Musgrove, Col. 7

Lines 1-5).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to include product identification in the selected data in order to keep track the product orders.

Claims 41-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrington [USP 5,895,454] in view of Trubey et al. [US 2002/0077930 A1].

Regarding claims 41, 43, 45, 47, 49, Harrington teaches all of the claimed subject matter as discussed above with respect to claims 39, 1, 45, 20 and 28, Harrington further discloses *said parameters comprise at least one of a Uniform Resource Locator (URL) of the Web-page* (Harrington, Col. 4-Lines 8-12), except *a URL of an image of the product*.

Trubey teaches *a URL of an image of the product* is stored at merchandising database (Trubey, Paragraph 0147).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include *URL of an image of the product* in Harrington's database in order to display the product image to the user.

Regarding claims 42, 44, 46, 48 and 50, Harrington teaches all of the claimed subject matter as discussed above with respect to claims 34, 1, 8, 20 and 26, but fails to teach the step of *determining a number or times the Web-page has been rendered*.

Trubey teaches the step of *determining a number or times the Web-page has been rendered* (Trubey, Paragraph 0167).

Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to include the times or rendering as taught by Trubey into Harrington method, system and program in order to prioritize the product display.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than

SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-

4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, JAMES K. TRUJILLO can be reached on 571-272-3677. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-

8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

<div style="text-align:right">

HUNG Q. PHAM
Primary Examiner
Art Unit 2159

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/HUNG Q. PHAM/
Primary Examiner, Art Unit 2159
June 9, 2010